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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,553	11/28/2001	Dale Albert Grinstead	C6625(V)	9316

201 7590 07/16/2004

UNILEVER  
PATENT DEPARTMENT  
45 RIVER ROAD  
EDGEWATER, NJ 07020

EXAMINER
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PADEN, CAROLYN A

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/995,553	GRINSTEAD ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Carolyn A Paden	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 June 2004.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 7 and 9-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 9-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unilever (0265202) as further evidenced by Wierenga (5,977,054) for reasons of record, used in rejecting claims in the last office action under 35 USC 102.

Applicant has amended the claims to set forth the limitations on the amounts of organic and inorganic acids in the product. These amounts are fully taught by Unilever. The claims appear to differ in the suggestion of the inclusion of an anionic surfactant. But Unilever intended to include any of the surfactants in "Surface Active Agents and Detergents". SDS or sodium dodecyl sulfate is applicant's suggested anionic surfactant (page 7, line 7 of the specification). This surfactant has been known and available on the market for a very long time. Examiner does not believe that the Unilever patent intended to omit any known surfactant for his composition.

It is appreciated that the use of cleaning a foodstuff or creating a food wash composition is not disclosed in the reference but the intended use of a product does not alone carry any patentable weight.

Claims 1, 2, 4, 6-12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monsanto (0,312,519) as further evidenced by Wierenga (5,977,054) for reasons of record, used in rejecting claims in the last office action under 35 USC 102.

Applicant has amended the claims to set forth the limitations on the amounts of organic and inorganic acids in the product. These amounts are fully taught by Monsanto. The claims appear to differ in the suggestion a food wash. This has been considered but is not persuasive. The poultry carcasses in Monsanto are immersed in water and are washed by contact with the liquid ingredients. Also the intended use of the product claims does not alone constitute unobviousness. The specific passage pointed to by the examiner in the previous office action is at page 10, lines 36-40. To modify the composition of Monsanto to provide for the exact amounts of each of the ingredients of the claims would have been obvious to one having

ordinary skill in the art who desires to was a food rather than sanitize it.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monsanto (0,312,519) as further evidenced by Wierenga (5,977,054) as applied to claims 1, 2, 4, 6-12 and 15 above, and further in view of Guthery (5,364,650) for reasons of record.

Applicant's arguments that Guthery does not add anything to the primary rejection, which he feels should be dropped, and thus no additional arguments are needed herein.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 7 and 9 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Lopes (6,617,290) as further evidenced

by Wierenga (5,977,054) for reasons of record used in rejecting claims under 35 USC 102(b).

Applicant argues that Lopes used a sequestering agent not employed in applicant's composition. This has been considered but is not persuasive because the claims are open to the inclusion of other ingredients. Applicant states that the pH of Lopes is not shown. This is incorrect and see example 1, column 5, line 48 for evidence of this assertion. The anionic surfactant are clearly disclosed at column 5, line 6 and from line 6-line 22. Applicant argues that the pK of the organic acids are not in Lopes. But pK is a physical constant of an organic acid that is provided by Wierenga.

Claims 10-12, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopes for reasons of record used in rejecting the claims under 35 USC 102(b) in the last office action.

The claims appear to differ from Lopes in the suggestion of the extent of dilution of the Lopes food wash. But to dilute the food wash to one level versus another would have been an obvious way to modify the extent of disinfection desired on the food surface.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lopes as further evidenced by Wierenga as

applied to claims 1-4, 7 and 9 above, and further in view of Guthery (5,364,650).


The claims appear to differ from the reference in the suggestion of the use of flumes as a way to wash a food during processing. Guthery , at column 2, lines 62-66 teaches strainers, paddles, brushes or pump driven liquid jets for use in poultry processing while column 3, lines 46-51 teaches dipping and spraying poultry to disinfect the carcass. Although flumes are not specifically mentioned, one of ordinary skill in the art would have expected that the contents of the flume would also require the disinfecting composition of the claims in order to reduce cross-contamination of microorganisms in a liquid transport from one work station to another.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is (571) 272-1403. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (571) 272-1398 or by dialing 571-272-1700. The fax

phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
CAROLYN PADEN 7-13-04  
PRIMARY EXAMINER  
GROUP 1300 1761